



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re: Appl. No. : 10/815,202 Confirmation No. 9504
Applicant : Robert CASSONI
Filed : March 31, 2004
TC/A.U. : 3611
Examiner : YEAGLEY, Daniel S.
Docket No. : 527.1001DIV
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October 17, 2006

APPELLANTS' BRIEF UNDER 37 C.F.R. § 41.37

Sir:

Appellant submits this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of his appeal of the Final Rejection dated February 13, 2006 in this application. The small entity statutory fee of \$250.00 is paid concurrently herewith.

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1. REAL PARTY IN INTEREST

The real party in interest is Cassoni Golf LLC, a Delaware limited liability corporation.

2. RELATED APPEALS AND INTERFERENCES

Appellant, his legal representatives, and Cassoni Golf, LLC are not aware of any appeal, interference or judicial proceeding that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

3. STATUS OF CLAIMS

Claims 1 to 20 are pending. Claims 1 to 20 have been finally rejected as per the Final Office Action dated February 13, 2006.

The rejection to claims 1 to 20 thus is appealed. A copy of appealed claims 1 to 20 is attached hereto as Appendix A.

4. STATUS OF AMENDMENTS AFTER FINAL

Amendments to claims 9 and 19 were filed after the final rejection, and are considered entered as per the Advisory Action mailed July 31, 2006. A Notice of Appeal was filed on July 12, 2006 and received by the U.S.P.T.O. on July 17, 2006.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 recites a golf club carrier 1 (see, e.g., page 11, last line and Fig. 2) comprising:

a carrier body 3 (see, e.g., page 12, line 5 and Fig. 2) having a first side (see, e.g., Fig. 2) and a second side (see, e.g., Fig. 2),

a golf bag 2 (see, e.g., Fig. 2 and page 12, line 4) having a back, front, bottom and top and being supported by the carrier body on the first side for holding a plurality of golf clubs, the carrier body supporting the back and the bottom, the top being open for access to golf clubs in the golf bag;

two wheels 31 (see, e.g., page 11, last line and Fig. 2) connected to the carrier body and extending from the carrier body on the second side;

a handle 5 (see, e.g., page 12, lines 3 to 4 and Fig. 2) connected to the carrier body for permitting a person to move the carrier;

a hitching device 9 (see, e.g., Fig. 5 and page 14, line 12) connected to the carrier body for connecting to another hitching device 55 (see, e.g. Fig. 5 and page 14, line 19) on a golf cart, at least a portion of the hitching device extending from the first side at the bottom of the golf bag (See, e.g., Fig. 2).

Independent claim 9 recites a golf club carrier 1 (see, e.g., page 11, last line and Fig. 2) comprising:

a carrier body 3 (see, e.g., page 12, line 5 and Fig. 2) having a first side and a second side, a golf bag 2 (see, e.g., Fig. 2 and page 12, line 4) having a back, front, bottom and top and being supported by the carrier body on the first side for holding a plurality of golf clubs, the carrier body supporting the back and the bottom and the top being open for access to golf clubs in the golf bag;

two wheels 31 (see, e.g., page 11, last line and Fig. 2) connected to the carrier body and extending from the second side, the wheels having an axis, the axis being movable with respect to the carrier body;

a handle 5 (see, e.g., page 12, lines 3 to 4 and Fig. 2) connected to the carrier body for permitting a person to move the carrier; and

a hitching device 9 (see, e.g., Fig. 5 and page 14, line 12) connected to the carrier body for connecting to another hitching device 55 (see, e.g. Fig. 5 and page 14, line 19) on a golf cart, at least a portion of the hitching device extending from a golf bag first side of the golf bag and permitting rotation of the carrier body about the other hitching device.

Independent claim 14 recites a carrier 1 (see, e.g., page 11, last line and Fig. 2) for attachment to a golf car comprising:

a carrier body 3 (see, e.g., page 12, line 5 and Fig. 2) having a first side, a second side, a top and a bottom;

two wheels 31 (see, e.g., page 11, last line and Fig. 2) connected to the carrier body and extending from the second side;

a handle 5 (see, e.g., page 12, lines 3 to 4 and Fig. 2) connected to the carrier body for permitting a person to move the carrier;

a hitching device 9 (see, e.g., Fig. 5 and page 14, line 12) connected to the carrier body for connecting to another hitching device 55 (see, e.g. Fig. 5 and page 14, line 19) on the golf car, at least a portion of the hitching device extending from the first side at the bottom of the carrier body.

Independent claim 20 recites a carrier 1 (see, e.g., page 11, last line and Fig. 2) for attachment to a golf car comprising:

a carrier body 3 (see, e.g., page 12, line 5 and Fig. 2) having a first side, a second side, a top and a bottom;

two wheels 31 (see, e.g., page 11, last line and Fig. 2) connected to the carrier body and extending from the second side;

a handle 5 (see, e.g., page 12, lines 3 to 4 and Fig. 2) connected to the carrier body for permitting a person to move the carrier;

a hitching device 9 (see, e.g., Fig. 5 and page 14, line 12) connected to the carrier body for connecting to another hitching device 55 (see, e.g. Fig. 5 and page 14, line 19) on the golf car, at least a portion of the hitching device permitting rotation of the carrier body with respect to the golf car.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented are whether claims 1, 3, 4, 5, 8, 9, 11 and 12 should be rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pitkanen (US 5,454,576) in view of Dula; whether claims 2, 6, 7, 10 and 13 should be rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pitkanen as modified by Dula in further view of Underwood; and whether claims 14 to 20 should be rejected under 35 U.S.C. § 103 as unpatentable over Dula (US 5,738,261) in view of Underwood (US 2,577,290).

7. ARGUMENTS

35 U.S.C. 103 Rejections

Claims 1, 3, 4, 5, 8, 9, 11 and 12 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pitkanen (US 5,454,576) in view of Dula.

Pitkanen discloses a foldable two-wheeled golf pull cart with a U-shaped foot member 53 to permit the pull cart to be supported in a stable upright position when in use (See col. 3, lines 2 to 5). The foot member 53 is fastened to a bent over portion of a bracket 18 at its two ends. (See Fig. 11).

Dula shows a vehicle hitch for securing a conventional pool cart 11 attached to a rear bumper 13 of a conventional pick-up truck 12.

Claim 1 of the present application recites a golf club carrier comprising:

a carrier body having a first side and a second side,

a golf bag having a back, front, bottom and top and being supported by the carrier body on the first side for holding a plurality of golf clubs, the carrier body supporting the back and the bottom, the top being open for access to golf clubs in the golf bag;

two wheels connected to the carrier body and extending from the carrier body on the second side;

a handle connected to the carrier body for permitting a person to move the carrier;

a hitching device connected to the carrier body for connecting to another hitching device on a golf cart, at least a portion of the hitching device extending from the first side at the bottom of the golf bag.

Foot member 53 of Pitkanen is not “a hitching device” at all, but merely supports the pull cart so it can stand. It also seems incapable of being modified to be “a hitching device connected to the carrier body for connecting to another hitching device on a golf cart” as claimed.

In addition, Dula teaches absolutely nothing at all about the pool cart except to say it is conventional, and does not teach to modify a golf club carrier at all to make any modifications to a hand truck or cart at all- it teaches to use a conventional hand cart.

Moreover, it is respectfully submitted that one of skill in the art would not have looked to

the device of Dula for use with the Pitkanen golf cart device, as Dula requires an upper tube and lower tube on the Dula pool cart for hitching, which Pitkanen does not have.

Furthermore neither reference teaches or shows “another hitching device on a golf cart” as claimed.

Claim 9 has similar limitations.

Claims 3 and 11: Argued Separately

With further respect to claim 3 and 11, these claims recite as an additional element a support surface, the golf club carrier capable of standing upright when the support surface and the wheels contact ground.

The support surface is thus a separate component from the hitching device, and there is no such separate support surface in Dula or Pitkanen. The Final Office Action is thus in error as recited that same component as both the hitching device and support surface.

Withdrawal of the rejections to claims 3 and 11 is respectfully requested for these reasons as well.

Claims 4 and 12: Argued Separately

Claims 4 and 12 recite the golf club carrier wherein the hitching device includes a mount claw.

The foot member 53 of Dula is not a claw at all. In fact in the present specification a tube is received in a claw, and according to the present specification foot member 53 has the exact opposite structure of a claw.

Withdrawal of the rejections to claims 4 and 12 is respectfully requested for these reasons as well.

Claims 2, 6, 7, 10 and 13: Argued Separately

Claims 2, 6, 7, 10 and 13 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pitkanen as modified by Dula in further view of Underwood.

Underwood discloses a collapsible golf bag carrier.

There is absolutely no motivation or reason to modify the pool cart of Dula to have

collapsible wheels as asserted. The wheels of Dula are right at the base of the pool cart body and there is no need or desire to retract them, or to retract the wheels of Pitkanen with the Underwood teachings.

Withdrawal of the rejections is respectfully requested.

Claims 14 to 20: Argued Separately

Claims 14 to 20 were rejected under 35 U.S.C. § 103 as unpatentable over Dula (US 5,738,261) in view of Underwood (US 2,577,290).

Dula is discussed above. Underwood discloses a collapsible golf bag carrier. I

Claim 14 recites a carrier for attachment to a golf car comprising:
a carrier body having a first side, a second side, a top and a bottom;
two wheels connected to the carrier body and extending from the second side;
a handle connected to the carrier body for permitting a person to move the carrier;
a hitching device connected to the carrier body for connecting to another hitching device on the golf car, at least a portion of the hitching device extending from the first side at the bottom of the carrier body.

Neither Dula nor Underwood discuss or teach a carrier for attachment to a golf car or “a hitching device connected to the carrier body for connecting to another hitching device on the golf car, at least a portion of the hitching device extending from the first side at the bottom of the carrier body.” In fact the Dula hitch does not appear suitable for a golf car, and there is no suggestion or teaching discussed at all in the Office action for so modifying Dula.

Claim 20 has similar limitations in this respect.

Withdrawal of the 35 U.S.C. 103 rejections is thus respectfully requested.

Claim 15: Argued Separately

Claim 15 recites the carrier as recited in claim 14 wherein the wheels have an axis, the axis being movable with respect to the carrier body.

The wheels of Dula are right at the body and there is no need or motivation to have their axis be movable with respect to the carrier body.

Claim 16: Argued Separately

Claim 16 recites the carrier as recited in claim 15 wherein the axis of the wheels is movable via the handle.


There is no teaching or motivation to provide Dula with such a handle actuation and it is respectfully submitted that a pool device of Dula does not need or desire such an actuation.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this appeal brief is respectfully requested.

Respectfully submitted,

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APPENDIX A:

**APPEALED CLAIMS 1, 2, 5, 6, 7, and 10 to 20 of
U.S. APPLICATION SERIAL NO. 10/146,245**

Claim 1 (previously presented): A golf club carrier comprising:

- a carrier body having a first side and a second side,
- a golf bag having a back, front, bottom and top and being supported by the carrier body on the first side for holding a plurality of golf clubs, the carrier body supporting the back and the bottom, the top being open for access to golf clubs in the golf bag;
- two wheels connected to the carrier body and extending from the carrier body on the second side;
- a handle connected to the carrier body for permitting a person to move the carrier;
- a hitching device connected to the carrier body for connecting to another hitching device on a golf cart, at least a portion of the hitching device extending from the first side at the bottom of the golf bag.

Claim 2 (previously presented): The golf club carrier as recited in claim 1 wherein the wheels are retractable and further comprising a spring connected to the wheel for assisting in retracting the wheels.

Claim 3 (original): The golf club carrier as recited in claim 1 further comprising a support surface, the golf club carrier capable of standing upright when the support surface and the wheels contact ground.

Claim 4 (original): The golf club carrier as recited in claim 1 wherein the hitching device includes a mount claw.

Claim 5 (original): The golf club carrier as recited in claim 1 wherein the wheels have an axis, the axis being movable with respect to the carrier body.

Claim 6 (original): The golf club carrier as recited in claim 5 wherein the axis of the wheels is movable via the handle.

Claim 7 (original): The golf club carrier as recited in claim 6 wherein the handle is rotatable to move the axis.

Claim 8 (previously presented): The golf club carrier as recited in claim 1 wherein the portion of the hitching device permits rotation of the golf club carrier.

Claim 9 (previously presented): A golf club carrier comprising:

- a carrier body having a first side and a second side,
- a golf bag having a back, front, bottom and top and being supported by the carrier body on the first side for holding a plurality of golf clubs, the carrier body supporting the back and the bottom and the top being open for access to golf clubs in the golf bag;
- two wheels connected to the carrier body and extending from the second side, the wheels having an axis, the axis being movable with respect to the carrier body;
- a handle connected to the carrier body for permitting a person to move the carrier; and
- a hitching device connected to the carrier body for connecting to another hitching device on a golf cart, at least a portion of the hitching device extending from a golf bag first side of the golf bag and permitting rotation of the carrier body about the other hitching device.

Claim 10 (original): The golf club carrier as recited in claim 9 wherein the axis of the wheels is movable via the handle.

Claim 11 (original): The golf club carrier as recited in claim 9 further comprising a support surface, the golf club carrier capable of standing upright when the support surface and the wheels contact ground.

Claim 12 (original): The golf club carrier as recited in claim 9 wherein the hitching device includes a mount claw.

Claim 13 (original): The golf club carrier as recited in claim 10 wherein the handle is rotatable to move the wheels.

Claim 14 (previously presented): A carrier for attachment to a golf car comprising:
a carrier body having a first side, a second side, a top and a bottom;
two wheels connected to the carrier body and extending from the second side;
a handle connected to the carrier body for permitting a person to move the carrier;
a hitching device connected to the carrier body for connecting to another hitching device on the golf car, at least a portion of the hitching device extending from the first side at the bottom of the carrier body.

Claim 15 (original): The carrier as recited in claim 14 wherein the wheels have an axis, the axis being movable with respect to the carrier body.

Claim 16 (original): The carrier as recited in claim 15 wherein the axis of the wheels is movable via the handle.

Claim 17 (original): The carrier as recited in claim 16 wherein the handle is rotatable to move the axis.

Claim 18 (original): The carrier as recited in claim 16 wherein the handle is latchable.

Claim 19 (previously presented): The carrier as recited in claim 14 wherein the portion of the hitching device permits rotation of the carrier.

Claim 20 (previously presented): A carrier for attachment to a golf car comprising:
a carrier body having a first side, a second side, a top and a bottom;
two wheels connected to the carrier body and extending from the second side;
a handle connected to the carrier body for permitting a person to move the carrier;

a hitching device connected to the carrier body for connecting to another hitching device on the golf car, at least a portion of the hitching device permitting rotation of the carrier body with respect to the golf car.

APPENDIX B

Evidence Appendix under 37 C.F.R. §41.37 (c) (ix):

No evidence pursuant to 37 C.F.R. §§1.130, 1.131 or 1.132 and relied upon in the appeal has been submitted by appellants or entered by the examiner.

APPENDIX C

Related proceedings appendix under 37 C.F.R. §41.37 (c) (x):

As stated in “2. RELATED APPEALS AND INTERFERENCES” of this appeal brief, appellants, their legal representatives, and assignee are not aware of any appeal or interference that directly affects, will be directly affected by, or will have a bearing on the Board’s decision in this appeal.